

REMARKS

Claims 1-11 remain in the application. Only Claim 1 is in independent form.

Claim Rejections Under 35 U.S.C. §103

Claims 1, 3-6 and 9-11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Herbenar (U.S. Patent 3,951,557) in view of Graham et al. (U.S. Patent 2,635,906).

Herbenar '557 discloses a tension-style ball joint assembly including upper (21) and lower (28) bearings. The lower bearing (28) is split. The cover plate (37) is not "disposed about" the movable member as recited in the Applicant's Claim 1. Rather, because Herbenar is a tension-style ball joint assembly, the cover plate (37) caps the lower end of the housing (11).

Graham '906 discloses a compression-style ball joint assembly having only one keeper-style "upper end" bearing (13) holding the ball portion (12a) of the stud in the housing (11). The upper bearing (13) is not split, and does not simultaneously engage the ball portion (12a) of the ball stud (12) and the inner side wall (11e) of the housing (11).

Thus, neither Herbenar '557 nor Graham '906 disclose an annular metal upper bearing that is disposed about the movable member and which is formed with a split segment linking its inner and outer surfaces. Graham has no such split segment bearing whatsoever. The Office Action affirms this in stating "Herbenar does not disclose that the upper bearing has a split segment linking said inner surface with said outer surface." Thus, neither reference discloses a key feature recited in Applicant's Claim 1.

The Office Action alleges that it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the upper bearing of Herbenar with a split in order to have engagement between the bearing and the movable member. However, this is counter to the teaching of Herbenar. Specifically, because Herbenar's ball joint assembly is a

“tension-mode” assembly, the upper bearing is designated the “load-carrying” bearing (see column 3, lines 23-28). The lower split bearing (22) is classified as a wear take up bearing. Although nowhere is the material composition of the split bearing (22) specified, the clear implication is that it is made from a plastic material. This implication is gleaned from column 2, lines 33-36 wherein it is indicated that the assembly contains either dual plastic bearings or plastic and steel bearings. Because the load carrying bearing (21) is consistently set forth as the more rigid and durable of the two bearings, a combination steel and plastic bearing assembly would, by nature, indicate a steel composition for the load-carrying bearing (21) and a plastic composition for the split bearing (22). Thus, in either example presented the split bearing (22) is made of plastic.

Claim 1 has been amended to positively recite the relative portion of its split metal upper bearing.

Accordingly, it is respectfully submitted that a *prima facie* case of obviousness cannot be maintained against amended Claim 1 through the application of Herbenar ‘557 in combination with Graham ‘906 in the manner asserted in the Office Action. Upon scrutiny, it can be demonstrated that the underlying teachings in Graham and Herbenar simply do not rise to the level of placing the Applicant’s invention within the public domain. Thus, it is respectfully submitted that the rejection is overcome.

Claim 2 is rejected under 35 U.S.C. §103(a) as being unpatentable over Herbenar and Graham et al. as applied to Claims 1, 3-6 and 9-11 above, and further in view of Maughan (U.S. Patent 5,564,853).

Maughan '853 discloses a movable joint comprising a metal housing having a side wall which defines a central bore with a closed end and an open end. A non-metal lower bearing (22) is disposed within the central bore. An annular non-metal upper bearing (22) is disposed about the movable member within the central bore. Nowhere is it suggested in Maughan that the upper or lower bearings may be formed of metal. Furthermore, Maughan's annular non-metal upper bearing (24) does not include a "split segment" linking the inner and outer surfaces.

Claim 2 has been amended to address a typographic error.

It is understood that Maughan is asserted for the disclosure of an axial lubrication port. However, it is respectfully submitted that the rejection of Claim 2 does not meet the antecedent limitations recited in Applicant's Claim 1, as amended. Accordingly, because Claim 1 has been demonstrated to be both novel and non-obvious over the cited prior art, it is respectfully submitted that Claim 2 is likewise presented in condition for allowance.

Claims 7 and 8 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Herbenar and Graham et al. as applied to Claims 1, 3-6 and 9-11 above, and further in view of Urbach et al. (U.S. Patent 5,997,208).

Urbach '208 discloses a ball joint assembly 10 utilizing a one-piece bearing cup (24) made from an injection molded polymeric material such as DELRIN™. Like Herbenar and Graham before, Urbach also fails to disclose numerous key features recited in Claim 1 as amended. Claim 1 is the base claim for dependent Claims 7 and 8. Urbach fails to provide the necessary teaching or motivation, lacking in Herbenar and Graham, with which to obviate the Applicant's Claim 1. Because a *prima facie* case of obviousness requires that all the claimed elements be taught or suggested in the prior art references when combined, the rejection of

obviousness must fail. Accordingly, it is respectfully submitted that dependent Claims 7-8 are not obvious over Herbenar and Graham in view of Urbach.

Concluding Remarks

It is respectfully submitted that a *prima facie* case of obviousness cannot be maintained against amended Claim 1. The cited references simply do not teach, suggest or motivate, nor do they provide a reasonable expectation of success. The subject application is therefore believed to be presented here in condition for allowance.

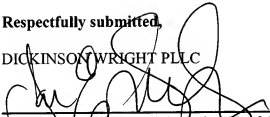
Reconsideration of this application as amended is respectfully requested.

It is believed that this application is now in condition for allowance. Further and favorable action is requested.

The Patent Office is authorized to charge or refund any fee deficiency or excess to Deposit Account No. 04-1061.

Respectfully submitted,

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